LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

301 State House
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FISCAL IMPACT STATEMENT

LS 7869
BILL NUMBER: SB 518

NOTE PREPARED: Jan 26, 2003
BILL AMENDED:

SUBJECT: Securitize Tobacco Settlement Funds.

FIRST AUTHOR: Sen. Clark
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED:		**GENERAL**
	X	**DEDICATED**
		FEDERAL

IMPACT: State

Summary of Legislation: This bill establishes the Tobacco Asset Financing Authority and provides for the sale of bonds payable from up to 40% of future tobacco settlement payments to the state. The bill limits the use of the bond proceeds to capital projects for state agencies and state educational institutions, grants to state educational institutions and other entities for certain capital projects, and retirement or restructuring of existing debt. The bill also makes related changes in the statute governing distributions from the Tobacco Master Settlement Agreement Fund.

Effective Date: July 1, 2003.

Explanation of State Expenditures: This bill defines a program plan and specifies the purposes or projects that may make up such a plan and for which the net proceeds of a sale of bonds may be disbursed. Disbursements may be made for: capital projects for state agencies and state post-secondary institutions; grants to state institutions for higher education; and for retiring or restructuring existing debt.

The Tobacco Asset Financing Fund is created. The Fund is to be controlled by the Tobacco Asset Financing Authority and held separately from all other public moneys and funds controlled by the state, but for the exclusive benefit of the state in carrying out the program plan. The Tobacco Asset Financing Fund is to be segregated into two accounts, the Qualified Tax-exempt Expenditure Account and the Taxable Expenditure Account. The net proceeds of taxable or tax-exempt bonds issued by the authority are to deposited in the appropriate account for subsequent transfer to the state at the direction of the State Budget Director. The treasurer of the Authority is the custodian and trustee of the Fund and administers the Fund at the direction of the Board.

This bill excludes the amounts of the Tobacco Master Settlement Agreement sold to the Tobacco Asset Financing Authority from provisions relating to funds accumulating in the "Trust Fund" under the current statute that requires 40% of the payments received by the state are not available for expenditure, transfer, or distribution. This bill would maintain the existing Trust Fund; eliminating additional deposits from the Tobacco Master Settlement Agreement.

The formula established by the bill would leave in place the provision that 60% of the amount of the Tobacco Master Settlement Agreement annual distribution determined to be payable to the state would be available for appropriation. The State Budget Agency (SBA) estimates that 60% of the estimated payable would be $76.6M in FY 2004 and $77.6 M in FY 2005.

Explanation of State Revenues: This bill creates the Tobacco Asset Financing Authority to assist in securitizing 40% of the revenue stream payable to the state from the Tobacco Master Settlement Agreement between the states and participating tobacco manufacturers. The Authority is established as a body corporate and politic. The governance of the Authority is by a 7-member board consisting of the Governor, the Treasurer of State, The Budget Director, and four members appointed by the Governor (not more than two of whom may be members of the same political party). Four members of the Board constitute a quorum, and four affirmative votes, two of which must be the Governor, the Budget Director, or the Treasurer, are required for the Board to take action. Members of the Board are eligible for a per diem allowance equal to that provided to members of the General Assembly and are entitled to reimbursement for actual expenses on the same basis as state employees. The per diem allowance is currently $129 per day.

The Authority may employ independent counsel, financial advisers, other agents, and employees necessary to carry out the operations of the Authority. The Authority is required to submit an annual report concerning operations and accomplishments to the Governor and the Legislative Council. The Authority is prohibited from exercising the power of eminent domain and levying taxes.

The Authority may purchase from the state a portion of the amounts and revenues due to the state under the Tobacco Master Settlement Agreement. The Tobacco Asset Financing Authority is authorized to issue bonds in an amount appropriate to provide sufficient funds for payment of debt service, establishment of debt service or operating reserves to secure the bonds, and covering the cost of issuance of bonds, financing costs, and other expenditures necessary to carry out its purposes. The net proceeds of bonds issued by the Authority, with certain exceptions, are to be deposited in the Tobacco Asset Financing Fund.

The bill authorizes the State Budget Agency to sell and assign to the Authority all of the state's right to receive a 40% portion of the state's annual share of the revenues due to the state under the Tobacco Master Settlement Agreement. A sale and assignment of rights to this revenue is irrevocable.

The Public Finance Office has estimated that an issuance of $706.3 M in bonds with a 35-year maturity would result in net proceeds of $597.3 M. This estimate is based on the financial conditions in December of 2002 and the following assumptions: a liquidity reserve of $55.0 M, capitalized interest of $24.8 M, costs of issuance of $7.1 M, an original issue discount of $22.1 M, an interest rate of 6.73%, and an accelerated retirement of the bonds. Actual proceeds from the securitization process will depend on future market factors. The dollar amount of bond proceeds actually achieved under the terms of the bill will be dependent upon the length of time for which the bonds are issued, how the bonds are structured, and the yield available in the market at the time of issuance. This estimate does not account for the potential investment earnings from the proceeds.

The bill provides for the dissolution of the Authority not later than two years from the final payment of its outstanding bonds and satisfaction of all other outstanding obligations. Upon dissolution, all of the Authority's property shall be transferred to the state, including the Authority's right to revenues due under the Tobacco Master Settlement Agreement.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: State Budget Agency and the Attorney General.

Local Agencies Affected:

Information Sources: Mark Moore; David Reynolds, Deputy Director, State Budget Agency.

Fiscal Analyst: Kathy Norris, 317-234-1360